

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICO RAMONEZ,

Petitioner,

v.

CASE NO. 05-CV-71488-DT
HONORABLE GEORGE CARAM STEEH

MARY BERGHUIS,

Respondent.

**ORDER GRANTING MOTIONS FOR A CERTIFICATE OF APPEALABILITY
AND FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**

Petitioner, through counsel, has filed motions for a certificate of appealability and for leave to proceed *in forma pauperis* on appeal concerning the denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Before Petitioner may appeal this Court’s dispositive decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). The Court must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.2d 1306, 1307 (6th Cir. 1997).

A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a federal district court rejects a habeas claim on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the district court’s assessment of the

constitutional claim debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

“A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In applying this standard, a district court may not conduct a full merits review, but must limit its examination to a threshold inquiry into the underlying merit of the petitioner’s claims. *Id.* at 336-37.

Petitioner’s sole claim upon habeas review is that trial counsel was ineffective for failing to investigate and present certain witnesses for the defense. While the Court continues to believe that Petitioner is not entitled to habeas relief on this claim, the Court finds that Petitioner has made a substantial showing of the denial of a constitutional right. *See Strickland v. Washington*, 466 U.S. 668 (1984). Accordingly, the Court **GRANTS** Petitioner’s motion for a certificate of appealability. Given this determination and the submitted financial data, the Court also **GRANTS** Petitioner’s motion for leave to proceed on appeal *in forma pauperis*.

IT IS SO ORDERED.

Dated: August 14, 2006

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

**Copies of this Order were served upon attorneys of record on
August 14, 2006, by electronic and/or ordinary mail.**

S/Josephine Chaffee
Deputy Clerk